

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DOCKET & FILE

IN RE APPLE REITs LITIGATION.

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) No. 11-CV-02919-KAM-JO
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)
) ECF Case
)
)
) STIPULATION AND
) ORDER
) EXTENDING TIME TO
) SERVE REPLIES AND
) PAGE LIMITS
)
)

WHEREAS, on April 17, 2012, the Court entered a Stipulation and Order (1) permitting David Lerner Associates, Inc. and David Lerner (“DLA Defendants”) and Defendants Apple REIT Six, Inc., Apple REIT Seven, Inc., Apple REIT Eight, Inc., Apple REIT Nine, Inc., and Apple REIT Ten, Inc. (“Apple REIT Defendants”) each thirty five pages, and the remaining Defendants thirty pages, for their memoranda in support of their Motions to Dismiss Plaintiffs’ Consolidated Amended Complaint (“Motions to Dismiss”); and (2) permitting Plaintiffs to file a single memorandum in opposition to the Motions to Dismiss not to exceed the combined length of the Defendants’ memoranda;

WHEREAS, on April 18, 2012, Defendants served Plaintiffs with their Motions to Dismiss;

WHEREAS, in support of their Motions to Dismiss and pursuant to the April 17, 2012 Stipulation and Order, the DLA Defendants served a 35 page memorandum, the Apple REIT Defendants served a 34 page memorandum, and the remaining Defendants served a 29 page memorandum;

WHEREAS, on May 9, 2012, the Court issued an Order establishing (1) May 25, 2012 as the deadline for Plaintiffs to serve Defendants with their opposition(s) to the Motions to Dismiss, and (2) July 6, 2012 as the deadline for Defendants to serve Plaintiffs with their replies in further support of the Motions to Dismiss (“Replies”);

WHEREAS, on May 25, 2012, Plaintiffs served Defendants with their Memorandum of Law In Opposition to the Motions to Dismiss (“Opposition”), which Opposition was 76 pages as allowed pursuant to the April 17, 2012 Stipulation and Order as the Opposition did not exceed the combined length of Defendants’ memoranda;

WHEREAS, in light of multiple commitments and conflicts, the intervening holiday and the complexity and number of issues presented in the Motions to Dismiss, Defendants have requested, subject to the approval of the Court, (1) a one-week extension of time to serve their Replies; and (2) a 15 page aggregate extension of the page limit for the DLA Defendants’ Reply and the Apple REIT Defendants’ Reply,¹ to be divided between such defendants as they choose, such that in the aggregate the two Replies will not exceed 35 pages;

WHEREAS, Plaintiffs do not oppose the requested extensions, subject to the approval of the Court; and

WHEREAS, Defendants have not made any prior request for an extension in connection with the briefing schedule for the Motions to Dismiss;

NOW, THEREFORE, IT IS HEREBY STIPULATED by the parties, subject to the approval of the Court, that:

(1) Defendants shall serve Plaintiffs with their Replies by July 13, 2012.

¹ The page limit for the remaining Defendants’ Reply is not affected by this Stipulation and [Proposed] Order.

(2) The Replies of the DLA Defendants and the Apple REIT Defendants may, in the aggregate, exceed the page limits allowed under Paragraph C(2) of the Court's chambers practices by 15 pages, to be divided between such defendants as they choose, such that in the aggregate the two Replies will not exceed 35 pages.

(3) In accordance with Paragraph C(1)(c) of the Court's chambers practices, once the Motions to Dismiss are fully briefed, each party shall file its own motion papers via ECF and provide the court with two courtesy copies.

Dated: July 3, 2012

/s/ Daniel C. Girard

Daniel C. Girard
Amanda M. Steiner
Christina C. Sharp
Janice S. Yi
GIRARD GIBBS LLP
601 California Street, 14th Floor
San Francisco, CA 94108
Tel.: (415) 981-4800

Jacob H. Zamansky
Edward H. Glenn, Jr.
Kevin D. Galbraith
ZAMANSKY & ASSOCIATES LLC
50 Broadway, 32nd Floor
New York, NY 10004
(212) 742-1414

*Lead Plaintiffs' Counsel and
Interim Class Counsel*

David P. Meyer
Matthew R. Wilson
Meyer Wilson Co., LPA
1320 Dublin Road, Suite 100
Columbus, OH 43215
Tel.: (614) 224-6000

Additional Plaintiffs' Counsel

/s/ Kenneth I. Schacter

Kenneth I. Schacter
Derek Care
BINGHAM McCUTCHEN LLP
399 Park Avenue
New York, NY 10022-4689
Tel.: (212) 705-7000

Michael D. Blanchard
BINGHAM McCUTCHEN LLP
One State Street
Hartford, CT 06103-3178
Tel.: (860) 240-2700

*Attorneys for Defendants David Lerner
Associates, Inc. and David Lerner*

/s/ Marshall Beil

Marshall Beil
McGUIREWOODS LLP
1345 Avenue of the Americas
7th Floor
New York, NY 10105-0106
Tel.: (212) 548-7004

s/KAM

So Ordered

Kiyo A. Matsumoto
U.S. District Judge

7/5/12

Elizabeth F. Edwards
McGUIREWOODS LLP
901 E. Cary Street
Richmond, VA 23219-4030
Tel.: (804) 775-4390

Charles Wm. McIntyre
McGUIREWOODS LLP
Washington Square
2001 K Street N.W., Suite 400
Washington, DC 20006-1040
Tel.: (202) 857-1742

Attorneys for Defendants Apple REIT Six, Inc., Apple REIT Seven, Inc., Apple REIT Eight, Inc., Apple REIT Nine, Inc., Apple REIT Ten, Inc., Apple REIT Suites Realty Group Inc., Apple Eight Advisors, Inc., Apple Nine Advisors, Inc., Apple Ten, Advisors, Inc., Apple Fund Management, LLC, Glade M. Knight, Bryan Peery, Glenn W. Bunting, Kent W. Colton, Michael S. Waters, Robert M. Wily, Garnett Hall, Jr., Anthony Francis "Chip" Keating, and David J. Adams

/s/ Sandra M. Hanna
Gregory S. Bruch
Sandra M. Hanna
WILLKIE FARR & GALLAGHER LLP
1875 K Street, NW
Washington, DC 20006
Tel.: (202) 303-1230

Attorneys for Defendants Lisa B. Kern, Bruce M. Matson and Ronald A. Rosenfeld